

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-461V

(Not to be Published)

HUGH GOSE,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

*
*
*
*
*
*
*
*
*
*

Special Master Corcoran

Filed: February 6, 2019

Decision by Proffer; Damages;
Influenza (“Flu”) Vaccine;
Guillain-Barré syndrome (“GBS”).

Amber D. Wilson, Maglio Christopher and Toale, PA, Washington, DC, for Petitioner.

Althea W. Davis, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 31, 2017, Hugh Gose filed a petition seeking compensation under the National Vaccine Injury Compensation Program.² ECF No. 1. Petitioner alleged that he suffered from Guillain-Barré syndrome (“GBS”) as a result of receiving the influenza (“flu”) vaccine on September 18, 2015. Petition at 1.

Thereafter, on November 15, 2017, Respondent filed his Rule 4(c) Report indicating that medical personnel of the Division of Injury Compensation Programs (“DICP”), Department of

¹ This Decision will be posted on the United States Court of Federal Claims website, and in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public in its current form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Health and Human Services concluded that Petitioner has satisfied the criteria for a GBS/flu vaccine injury as set forth in the Vaccine Injury Table (“Table”). *See* Rule 4(c) Report, filed November 15, 2017 (ECF No. 13) at 5-6. According to Respondent, the evidence shows that Petitioner suffered GBS following administration of the flu vaccine, and that onset occurred within the time period specified in the Table. *Id.* at 5. Thus, Respondent indicated that based on his review of the record Petitioner satisfied all legal prerequisites for compensation under the Act. *Id.* at 5-6. I subsequently issued a ruling on entitlement that same day. *See* ECF No. 14.

On February 5, 2019, Respondent filed a proffer proposing an award of compensation. ECF No. 34. I have reviewed the file, and based upon that review I conclude that the Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of \$211,599.62, in the form of a check payable to Petitioner.

Proffer at II. These amounts represent compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court is directed to enter judgment herewith.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

HUGH GOSE,)	
)	
Petitioner,)	No. 17-461V
)	Special Master Brian Corcoran
v.)	
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On March 31, 2017, Hugh Gose (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Respondent conceded petitioner’s entitlement to compensation in his Rule 4(c) Report filed on November 15, 2017. Based on Respondent’s Rule 4(c) Report, on November 15, 2017, Special Master Corcoran found petitioner entitled to compensation.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$211,599.62, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$211,599.62** in the form of a check payable to petitioner.¹

Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

C. SALVATORE D’ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

GABRIELLE M. FIELDING
Assistant Director
Torts Branch, Civil Division

s/Althea Walker Davis
ALTHEA WALKER DAVIS
Senior Trial Counsel
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-0515

DATED: 5 February 2019

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.